

JOHN NEWTON ALLEN                               §  
v.   §      CIVIL ACTION NO. 6:15cv66  
DIRECTOR, TDCJ-CID                           §

The Petitioner John Newton Allen, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his parole denial. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Allen states that he received a life sentence from Cherokee County in 1983. He saw the Parole Board in July of 2014 but received a two-year set-off. Allen asserts that the Texas Board of Pardons and Paroles used “mutual schemes of entrapment” to deny him federal and state protected rights by using false accusations to deny him parole, including “organized criminal activities, gang related obscenities [sic] of brutality, violent misdemeanors of juvenile, active gang leader at the age of 68.” Allen states that he has never belonged to a gang and his criminal case is not aggravated because the aggravated portion was dropped.

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(5th Cir. 1997); *see also* *Teague v. Quarterman*, 482 F.3d 769, 774 (5th Cir. 2007) (there is no right or expectancy of early release on parole in Texas because parole is within the unfettered discretion of the State). The magistrate judge also stated that Allen is not eligible for release on mandatory supervision because he is serving a life sentence and that his complaints about violations of state law do not set out valid grounds for federal habeas corpus relief.

Allen did not file objections to the magistrate judge's report *per se*, but filed a "notice of appeal." In the interests of justice, this notice will be construed as objections to the report. *See Cooper v. Baucum*, 273 F.App'x 396, 2008 WL 1743941 (5th Cir., April 11, 2008) (district court "correctly construed this pleading as objections to the magistrate judge's order rather than a notice of appeal," *citing* *Donaldson v. Ducote*, 373 F.3d 622, 624 (5th Cir. 2004)).

In his notice of appeal, Allen states that he is challenging the constitutionality of an Act of Congress, but he does not identify any such Act, much less demonstrate its unconstitutionality. He says that he was paroled in 1994 and discusses the legal principles of mandamus and res judicata, but fails to show the applicability of these principles to his case. Allen contends that the magistrate judge "abused her discretion" but does not address the magistrate judge's determination that Allen has no liberty interest in release on parole and therefore cannot mount a challenge against any state parole review procedure on procedural or substantive grounds. His objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings in the cause, the report of the magistrate judge, and the Petitioner's objections thereto. Upon such *de novo* review, the Court has concluded that the report of the magistrate judge is correct and the Petitioner's objections are without merit. It is accordingly

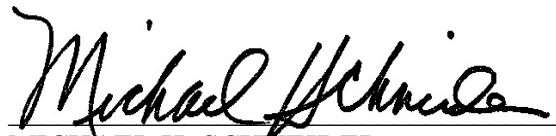
**ORDERED** that the Petitioner's objections are overruled and the report of the magistrate judge (docket no. 5) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled application for the writ of habeas corpus be and hereby is **DISMISSED WITH PREJUDICE**. It is further

**ORDERED** that the Petitioner John Newton Allen is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

**ORDERED** that any and all motions which may be pending in this action are hereby **DENIED**.

**SIGNED this 21st day of April, 2015.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE